



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,838	04/08/2004	Matthew Mrakovich	145641/GLOZ 2 00223	8510
27885	7590	02/03/2006		
FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP 1100 SUPERIOR AVENUE, SEVENTH FLOOR CLEVELAND, OH 44114			EXAMINER HARVEY, JAMES R	
			ART UNIT	PAPER NUMBER
			2833	

DATE MAILED: 02/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/820,838	Applicant(s) MRAKOVICH ET AL.	
	Examiner James R. Harvey	Art Unit 2833	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 January 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 3. NOTE: The newly amended claim language requires further consideration and/or search.

-- In response to applicant's remark (page 5, lines 23-30) that the examiner never indicates what is missing from claim 21, the indication from the examiner is not seen to be necessary, since the record is clear. Claim 21 was added as a new claim when applicant amended the claim(s) on 8-8-05 and by simply comparing the existing claim(s) language it is clear that new claim 21 does not require the first and second cables are spaced from one another in a first direction and that the first and second terminals are spaced from one another in a second direction generally parallel to the first direction as is claimed in claim 8 from which claim 14 (previously indicated as containing allowable subject matter) had seen to depend before it was cancelled by applicant's amendment dated 8-8-05.

-- In response to applicant's remarks (page 5, lines 27-31) contrary to applicant's statement that applicant was simply attempting to put that which the examiner indicated allowable into independent, applicant's amendment is seen to have broadened portions of the existing claim language by not requiring structure that was previously required and narrowing other portions of the claim language to overcome the previous rejection. The broadened portions of the claim language did not require the first and second cables are spaced from one another in a first direction and that the first and second terminals are spaced from one another in a second direction generally parallel to the first direction. Since the examiner did not believe the new claim language with the broader portions was allowable, the examiner was then required to interpret possible rejection scenarios in light of the broader portions of the claim language. It was the combination of the narrowing portions and broadening portions of the new claim language that was not anticipated by the previous references that caused the examiner interpret the claims in light of the broader portions of the claim language and it is applicant's amendment that necessitated the new rejection of the amended claims that required different structure than the previous claims.

-- In response to applicant's remarks (page 6, lines 5-11) concerning that Santos was not used in the first office action is seen to imply that the examiner was required to show how every piece of prior art in existence that could be used to reject applicant's claims be explained in a rejection. This is not seen to be a reasonable or feasible requirement.

Further, the examiner can not be expected to speculate what structure the applicant regards as the invention or how applicant will amend the claim language. In this particular situation, applicant added the limitation requiring some type of hinge related structure to overcome the existing rejection, the examiner now was required to search for a broad interpretation of the claim as a whole with some type of hinge structure; during the course of the search, it was noted that Santos made the claim unpatentable. To remark that the hinge teachings of Santos should have been used in the previous rejection that did not require a hinge is not correct. Such an accusation is seen to be unreasonable and is seen to be without merit.

-- In response to applicant's other remarks concerning the newly amended claim language, the newly amended claim language requires further consideration and/or search and will not be entered, since the prosecution on the merits is closed.

A handwritten signature in black ink, consisting of a stylized, cursive script that appears to read 'J. L. M.' followed by a long horizontal line extending to the right.